

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

No. 5:03-CR-243-018 (NAM)

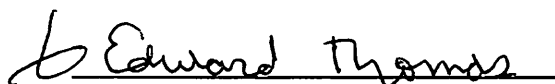
v.

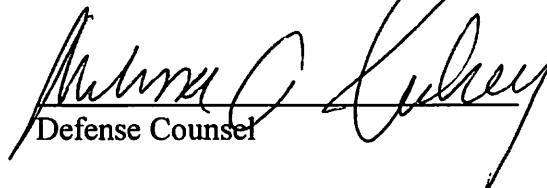
EDWARD M. THOMAS,
Defendant.

WAIVER OF JUDICIAL DISQUALIFICATION

I have been advised of the following:

1. Pursuant to Canon 3C of the Code of Conduct for United States Judges, a judge is disqualified from participating in a proceeding whenever the judge's impartiality might reasonably be questioned.
2. Canon 3D of the Code of Conduct for United States Judges allows the judge to participate in the proceeding if all the parties and lawyers are notified of the basis for disqualification and agree in writing or on the record to waive their right to disqualify the judge.
3. United States Magistrate Judge Andrew T. Baxter was employed from February 1, 1988 until January 3, 2010, as an Assistant United States Attorney for the Northern District of New York and served as Chief of the Criminal Division (June 2002 - March 2006), First Assistant U.S. Attorney (March 2006 - September 2008), and Acting/Interim U.S. Attorney (September 2008 - January 3, 2010).
4. Although Judge Baxter was not directly and substantially involved in my original criminal case and the related investigation, they were pending in the U.S. Attorney's Office, and were handled by other prosecutors while Judge Baxter held various positions in the U.S. Attorney's Office.
5. Absent a knowingly and voluntary waiver, the Code of Conduct for United States Judges would require that Judge Baxter be disqualified from participating in proceedings relating to my pending supervised release violation. Another United States Magistrate Judge would be assigned to participate in this proceeding and no parties' rights will be affected in any way by the reassignment of this matter.
6. Judge Baxter has advised me on the record of the disqualification issue.
7. Understanding my right to disqualify Judge Baxter and my right to have another United States Magistrate Judge assigned to handle this proceeding, I knowingly and voluntarily agree to waive my rights and elect to proceed before Judge Baxter with respect to the initial appearance on my supervised release violation, which was initiated after Judge Baxter left the U.S. Attorney's Office. Further proceedings will be conducted before a District Judge


Defendant


Defense Counsel

Date: ~~March~~, 2012

February 14, 2012